

9/004395



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run 6 months or continues to run from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☒ Appellant's Brief is due in accordance with 37 CFR 1.192(a)
- ☒ Applicant's response to the final rejection, filed 11-22-00 has been considered with the following effect, but it is not deemed to place the application in condition for allowance

- 1 ☒ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a) ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented
 - b) ☒ They raise new issues that would require further consideration and/or search. (See Note)
 - c) ☒ They raise the issue of new matter. (See Note)
 - d) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal
 - e) ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: "Antigenic fragments thereof sufficient to produce an immunogenic response" requires further consideration +/or search, possible new matter. Consideration +/or search of specific SEQ ID NO: 4-6, not previously claimed or considered.

- 2 ☐ Newly proposed or amended claims would be allowed if submitted in a separately filed amendment cancelling the non allowable claims
- 3 ☒ Upon the filing an appeal, the proposed amendment ☐ will be entered ☒ will not be entered and the status of the claims will be as follows:

Claims allowed _____

Claims objected to _____

Claims rejected 14-17, 19-30

However,

- ☐ Applicant's response has overcome the following rejection(s):

- 4 ☒ The office action containing the final rejection of the application is hereby withdrawn and the application is returned to the status of a pending application under the 102(a) of the Patent Act, 35 U.S.C. 102(a). The applicant is advised that the final rejection is hereby withdrawn and the application is returned to the status of a pending application under the 102(a) of the Patent Act, 35 U.S.C. 102(a).

The following information is being furnished to you for your information:

☒ Other Interview Summary Record

[Signature]
NITA MONTELEONE
EXAMINER